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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,603	11/08/2001	Peter Morrison	3089	6602

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PEDERSEN & COMPANY, PLLC  
P.O. BOX 2666  
BOISE, ID 83701

EXAMINER

ARYANPOUR, MITRA

ART UNIT PAPER NUMBER

3711

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/010,603

Applicant(s)

MORRISON, PETER

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: *apparatus 10; training target 12 and forwardly moved training target 12a*. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4 and 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites the limitation "the frame member" in line 2, it is also dependent on itself. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 6 recites the limitation "the base member" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3-9, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by San Emeterio (3,700,240).

Regarding claim 1, San Emeterio discloses an apparatus comprising a number of substantially rigid targets (18) arranged around an area (see figures 1, 4-8; also column 1, lines 31-35).

Regarding claim 3, San Emeterio shows each target (18) is mounted upon a substantially rigid frame member (14).

Regarding claim 4, San Emeterio further shows the target is releasably mounted (see column 1, lines 40-43) to the frame member (14).

Regarding claims 5-7, San Emeterio further shows the targets (18) are arranged upon a circular base member (10) and they are movable with respect to the base member (the targets are releasably attached for ease of transportation).

Regarding claims 8 and 9, San Emeterio further shows the targets (18) carry identifying indicia (they carry various digits) providing instructions regarding the targets to be aimed at (the identifying indicia serve as scoring digits which tell the player how many points they have acquired).

Regarding claim 11, San Emeterio further shows the targets (18) are substantially vertical (see figures 1 and 11).

Additionally:

7. Claims 1, 5-8, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Grasso (4,869,503).

Regarding claim 1, Grasso discloses an apparatus comprising a number of substantially rigid targets (10) arranged around an area (see figures 1, 4-8; also column 2, lines 33-51).

Regarding claim 5-7, Grasso shows each target (10) is mounted upon a circular base (11) and movable with respect to the base (the target can be releasably attached to the base).

Regarding claim 8, Grasso further shows the target (10) has identifying indicia (the image of a football player).

Regarding claim 10, Grasso further shows the target is a mannequin (see figure 1).

Regarding claim 11, Grasso shows the mannequin is substantially vertical.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over San Emeterio (3,700,240).

San Emeterio as disclosed above shows the targets (18) are separated (14) and in which retaining means (they are retained in place by being placed on 10) is located between adjacent targets (18). However, for the sake of argument it is old and well known to provide a backstop such as net means encompassing the playing area in order to confine the projectile, and it would have been obvious to do so for the apparatus of San Emeterio.

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*Conclusion*


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zink, Park, Young and Martin all show a circular playing area having target means thereon; Hamet and Holleran et al shows a playing field having a plurality of obstacles or targets; glass and Switzer each show target means to be used in an open playing field; Thomson shows a triangular frame with targets positioned on the perimeter; Berlemont, Warren and Brown each shown a confined playing arena; Moore shows a target game used in a swimming pool; Macri et al shows robots used for hockey training.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703 308 3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703 308 2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 7768 for regular communications and 703 305 3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1148.

MA  
23 January 2003

  
Paul T. Sewell  
Supervisory Patent Examiner  
Group 3700